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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,469	07/27/2001	Fabio Cinelli	CM-2017MC	1554

27752 7590 06/17/2003

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EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT PAPER NUMBER

1714

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,469

Applicant(s)

CINELLI ET AL.

Examiner

Katarzyna Wyrozebski Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

In view of properly filed terminal disclaimer in paper number 9 mailed on April 16, 2003, the double patenting rejection of record has been overcome.

***Claim Rejections - 35 USC § 112***

Rejection of claims 1 and 21 for containing indefinite limitations of: "from about up to"; "up to about" and "at least about" is not withdrawn. Again, it is not clear as to what exactly is the amount the applicants are trying to claim. Is it at least certain amount, about certain amount or up to?

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-11 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dietz (WO 97/05171).

The discussion of the disclosure of the prior art of Dietz from paragraph 5 of the office action mailed on 9/25/2003 is incorporated here by reference.

*Claim Rejections - 35 USC § 103*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 12, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz (WO 97/05171) in view of Bischoff (WO 97/24149).

The discussion of the disclosure of the prior art of Dietz and Bischoff from paragraph 9 of the office action mailed on 9/25/2002 is incorporated here by reference.

5. Claims 5-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz (WO 97/05171) in view of Corzani (EP 855,190).

The discussion of the disclosure of the prior art of Dietz and Corzani from paragraph 10 of the office action mailed on 9/25/2002 is incorporated here by reference.

6. Claims 16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz (WO 97/05171) in view of Boundry (US 6,227,106).

The discussion of the disclosure of the prior art of Dietz and Boundry from paragraph 11 of the office action mailed on 9/25/2002 is incorporated here by reference.

*Response to the Amendment*

In the response filed on 4/16/2003 the applicants have argued the following:

a) The adhesive composition of the present invention contains at least one phase that has thickness greater than 50 microns. The prior art of Dietz does not teach the present invention, since the adhesive of Dietz contains microscopic phases of 10 microns or less.

Although the prior art of Dietz does not disclose phase having thickness greater than 50 microns the rejection is held for following reason: From the language of the claim, it is not clear if the applicant refers to the phase after the adhesive has been deposited onto a substrate and after the water has been removed or beforehand. If the thickness of the phase the applicant is referring to is indeed measured after the adhesive it is applied to the surface and after the water has been removed, then the same would be expected from the prior art of Dietz based on the composition. In addition the microemulsion can be considered as one phase having particles with diameter of less than 10 microns.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

KIWL  
June 10, 2003

EDWARD J. CAIN  
PRIMARY EXAMINER  
GROUP 1500

